

## CHAPTER 1: INTRODUCTION

### SECTION 1: INTRODUCTION TO THE LOAN ORIGINATION HANDBOOK

#### 1.1 ABOUT THIS HANDBOOK

This handbook provides Agency multi-family housing staff with the guidance needed to originate loans and grants efficiently and effectively. Its goal is to help Loan Originators and Loan Approval Officials in Field Offices process applications smoothly, while making sure that the applicable legal and administrative requirements are met.

The handbook describes the Agency's loan processing policies and establishes its procedures for originating:

- Section 515 Multi-Family projects:
  - ◇ Rural rental housing (including congregate housing and group homes); and
  - ◇ Rural cooperative housing.
- Section 514/516 Farm Labor Housing projects:
  - ◇ Off-Farm Labor Housing; and
  - ◇ On-Farm Labor Housing.

The guidance provided by this handbook is intended to be consistent with all applicable laws, Executive Orders, and Departmental regulations, including other Agency regulations. Nothing contained in this handbook should be construed to supersede, rescind, or otherwise amend such laws, Executive Orders, and regulations.

#### 1.2 COMPANION MULTI-FAMILY HOUSING HANDBOOKS

This handbook is the first in a series of three handbooks that describe the requirements and procedures for the Agency's multi-family housing direct loan and grant programs. The two companion handbooks are:

- **RHS Multi-Family Handbook #2: Asset Management.** This handbook covers the requirements and procedures regarding the ongoing management of multi-family projects and the Agency's oversight of borrower performance.
- **RHS Multi-Family Handbook #3: Project Servicing.** This handbook addresses the requirements and procedures for servicing loan accounts, allowable servicing actions borrowers can request, project preservation, prepayment, and Agency actions in the event of compliance violations or project default.

## 1.3 USING THIS HANDBOOK

The handbook is organized to allow the reader to look up information on specific topics easily. Several graphic tools and conventions have been used to make information easier to find and understand.

### A. Citations and Text Boxes

- **Regulatory citations.** The regulation for Agency multi-family housing programs is provided in 7 CFR Part 3560. The text of that regulation is included in Appendix 1. To help readers locate the regulatory authority for procedures described here, references to this regulation appear in italicized brackets, for example: [*7 CFR 3560.51*]. Other regulations or RD instructions are simply referenced.
- **Form references.** Agency forms, and Agency guide, form, and system letters are shown in *italics*. All forms referenced in this handbook can be found in Appendix 3 and all letters can be found in Appendix 4.
- **Examples and exhibits.** Text boxes labeled as examples provide a specific illustration of a concept described in the text. Exhibits illustrate key points and are numbered in sequence, using the chapter number and a letter; for example, Exhibit 3-1 is the first exhibit in Chapter 3.

### B. Attachments and Appendices

- **Glossary and acronyms list.** Key words, terms, and acronyms are defined in the glossary, and a list of acronyms is provided at the end of the handbook.
- **Attachments.** Attachments at the end of each chapter contain technical information that is specific to the topics covered in the chapter. Attachments are referenced in sequence, using the chapter number and a letter, for example, Attachment 4-A is the first attachment in Chapter 4.
- **Appendices.** Appendices at the end of the handbook include forms and other reference materials that relate to multiple chapters.

### C. Terminology

Because terminology may vary from State to State and may change over time, this handbook uses certain standard terminology to provide consistency.

- **Agency.** The term “Agency” is used throughout this handbook to refer to the Rural Housing Service (RHS) within the Department of Agriculture that is responsible for administration of the multi-family housing programs.
- **Borrower.** The term “borrower” refers to one or more individuals who are receiving Agency assistance through a multi-family housing program in the form of a loan or a grant.

- **Loan Approval Official.** “Loan Approval Official” is used whenever someone other than the Loan Originator must approve an action. Unless otherwise specified, each State Director may determine which actions may be approved at the Field Office and which must be approved at the State Office.
- **Loan Origination Office.** Because the number of offices and the nature of the work conducted in each office may vary from State to State, the term “Loan Origination Office” is used throughout this handbook to refer to the office that is originating or servicing the loan.
- **Loan Originator.** “Loan Originator” refers to a person who is working directly with an applicant and conducting the basic underwriting analysis.
- **Loan Processing Staff.** This term is used as a general reference to Agency Field Staff that process loan and grant applications.
- **Loan/Grant Applicant.** The term “applicant” refers to one or more individuals who have applied for Agency assistance.

*This page intentionally left blank*

## SECTION 2: OVERVIEW OF THE AGENCY'S MULTI-FAMILY HOUSING PROGRAMS

### 1.4 GOALS OF RHS MULTI-FAMILY HOUSING PROGRAMS

The purpose of the Agency's multi-family housing programs is to provide adequate, affordable, decent, safe, and sanitary rental units for very low-, low-, and moderate-income households in rural areas. In providing this service, the Agency strives to meet several goals.

- **Customer service.** The Agency is committed to providing customer-friendly, streamlined service. The Agency will administer its programs fairly and in accordance with both the letter and the spirit of all equal opportunity and fair housing legislation and applicable Executive Orders.
- **Partnerships.** Working with its partners, such as borrowers, property management agents, tenants, other lenders, nonprofit organizations, and State and local agencies, can enhance the Agency's ability to better serve eligible households.
- **Effective use of resources.** As publicly funded initiatives, the Agency's multi-family housing programs must use tax dollars efficiently. The Agency aims to minimize administrative costs, underwrite loans responsibly, and leverage funding with private sources of credit to the extent possible.

### 1.5 SECTION 515 PROGRAM — AN OVERVIEW

The Section 515 direct loan program [7 *CFR Part 3560*] provides financing to support the development of rental units in rural areas that need housing affordable to very low-, low-, and moderate-income households, and where this housing is unlikely to be provided through other means.

Section 515 loans can be used to build, acquire and rehabilitate, or improve dwellings in rural areas. The term for an initial Section 515 loan is 30 years with a 50-year amortization period. However, the term for subsequent loans and loans for special types of properties, such as manufactured housing, may be made for a shorter term based on the project's expected useful life.

Each loan is made at a note rate established by the Agency as prescribed in RD Instruction 440.1, Interest Rates, Amortization, Guarantee Fee, Annual Charges, and Fixed Period. Borrowers approved for initial and/or subsequent loans receive interest credit, which reduces the effective interest rate for the Agency's financing thereby lowering the property's rents. In return for this below market rate financing, the borrower agrees to lease the project's rental units to income-eligible households at rents approved by the Agency. Borrowers operate on a nonprofit or limited profit basis.

## **1.6 SECTION 514 PROGRAM — AN OVERVIEW**

Section 514/516 direct loan and grant programs provide funds to support the development of adequate, affordable housing for farmworkers that is unlikely to be provided through other means.

### **A. Section 514 Loans and Section 516 Grants for Off-Farm Housing**

Section 514 loans and Section 516 grants can be used for the same purposes as Section 515 loans to finance rental housing for farmworkers. Unlike Section 515 projects, Off-Farm Labor Housing projects may be built outside rural areas, as long as the project addresses a need for affordable housing for farmworkers. These projects are eligible for financing at terms comparable to Section 515 loans, a grant to cover a share of the development cost, or a loan/grant combination finance package. The maximum term for an Off-Farm Labor Housing loan is 33 years, and the effective interest rate is one percent. For Off-Farm Labor Housing grants, the grant agreement remains in effect for 50 years. All Off-Farm Labor Housing projects operate on a not-for-profit basis. Tenants not only must be income eligible but also receive priority based on the proportion of their income received from farm work.

### **B. Section 514 Loans for On-Farm Housing**

Section 514 loans can also be used to finance the development of adequate housing for the farmworkers involved in a specific farm operation. These projects are treated as part of the farming operation and the occupants pay no rental charge. The maximum term for On-Farm Housing loans is 33 years, and the interest rate is one percent.

## SECTION 3: GENERAL PROGRAM REQUIREMENTS

### 1.7 CIVIL RIGHTS [7 CFR 3560.2]

The Agency will administer its programs fairly and in accordance with both the letter and the spirit of all equal opportunity and fair housing legislation and applicable Executive Orders. The civil rights compliance requirements for the Agency are contained in RD Instruction 1901-E, Civil Rights Compliance Requirements. Exhibit 1-1 lists the applicable federal laws and executive orders and highlights key aspects of these requirements.

#### Exhibit 1-1

#### Major Civil Rights Law Affecting the Multi-family Housing Loan and Grant Programs

- **Equal Credit Opportunity Act (ECOA).** Prohibits discrimination in the extension of credit on the basis of race, color, religion, national origin, sex, marital status, age, income from public assistance, and exercise of rights under the Consumer Protection Act.
- **Title VI of the Civil Rights Act of 1964.** Prohibits discrimination in a federally-assisted program on the basis of race, color, and national origin.
- **Title VIII of the Civil Rights Act of 1968** (also known as the Fair Housing Act of 1988, as amended). Prohibits discrimination in the sale, rental, or financing of housing on the basis of race, color, religion, sex, national origin, familial status, or disability.
- **Section 504 of the Rehabilitation Act of 1973.** Prohibits discrimination in a federally-assisted program on the basis of disability.
- **Age Discrimination Act of 1975.** Prohibits discrimination in a federally-assisted program on the basis of age.
- **Title IX of the Education Amendments of 1972.** Prohibits discrimination on the basis of sex in education programs and activities receiving federal financial assistance from Rural Development.
- **Executive Order 11063 as Amended by 12259.** Prohibits discrimination in housing or residential property financing to any federally-assisted activity against individuals on the basis of race, color, religion, sex, or national origin.
- **Executive Order 11246.** Nondiscrimination in employment by construction contractors (and subcontractors) receiving federally-assisted construction contracts in excess of \$10,000. It provides for equal employment opportunity without regard to race, color, religion, sex, and national origin.
- **Executive Order 12898.** Requires each federal agency to make achieving environmental justice a part of its mission by identifying and addressing disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations.

## A. Nondiscrimination

The various civil rights laws prohibit the denial of loans, grants, services, and benefits provided under the Section 515 and 514 programs to any person based upon race, color, national origin, sex, religion, marital status, familial status, age, physical or mental disability, source of income, or because the applicant has, in good faith, exercised any right under the Consumer Credit Protection Act (15 U.S.C. 1601). Discrimination in employment practices is also prohibited. These same requirements also apply to program participants. Agency oversight of borrower compliance with civil rights laws is covered in the Multi-family Asset Management Handbook. Complaints filed by tenants will be handled by the Agency in accordance with RD Instruction 2000-GGG, Memorandum of Understanding (MOU) Between the United States Department of Agriculture (USDA) and the United States Department of Housing and Urban Development (HUD).

Effective management and consistent procedures are good business practices that help ensure that all applicants are treated fairly. Poor program implementation, whether or not discrimination is intended, has possible civil rights consequences.

### Key Civil Rights Issues for Loan Origination

- Access
- Consistency and fairness of treatment
- Disparate impacts — intended or unintended
- Record keeping

## B. Reasonable Accommodations for Persons with Disabilities

In addition to avoiding discrimination, the Agency and loan and grant recipients must make reasonable accommodations to permit persons with disabilities to apply for and benefit from Agency programs. Reasonable accommodations may include providing facilities that are physically accessible so that all people can come to Agency offices. They may also include effective communication and outreach tools so that all applicants can obtain program information (e.g., a Telecommunications Device for the Deaf [TDD]).

Loan and grant applicants must also make reasonable accommodations in the design and construction of projects to permit persons with disabilities to apply for and occupy units at the project.

## C. Civil Rights Impact Analysis

Agency employees will conduct civil rights impact analyses in accordance with RD Instruction 2006-P, Civil Rights Impact Analysis to determine whether proposed policy actions, if approved and implemented, will negatively and disproportionately affect employees, program beneficiaries, or applicants for employment or program benefits due to race, national origin, or other protected basis.



## 1.8 REVIEWS AND APPEALS *[7 CFR 3560.9]*

Decisions that are not made in favor of a program participant (applicant, borrower, grant recipient, or tenant) are known as adverse decisions. Adverse decisions include: (1) administrative actions taken by Agency officials; and (2) the Agency's failure to take required actions within time frames specified in statutes or regulations, or within a reasonable time if no deadline is specified. Program participants have the right to request that any adverse decision be reviewed by the next-level supervisor. In addition, some adverse decisions may be appealed to the National Appeals Division (NAD). Appendix 2 contains 7 CFR Part 11, which provides procedures that both Agency officials and program participants must follow when an appeal is made.

### A. Informing Program Participants of Their Rights

Whenever an Agency official makes a decision that will adversely affect a program participant, the official must inform the participant in writing that a review by the next-level supervisor may be requested and whether the decision can be appealed to NAD.

Agency letters notifying loan applicants and borrowers of adverse decisions must contain the required information about reviews and appeals. Specific civil rights language that must be included in such letters is provided in **Attachment 1-A**.

#### 1. *Review Requests*

Participants who want to request a review by the next-level supervisor must do so within 15 days of the date of the Agency's letter notifying the applicant of an adverse decision. The request may be made verbally or in writing. Copies of written requests must be retained in the participant's case file. If a verbal request is made, Field staff must carefully document the request and place a copy in the case file.

#### 2. *Appeal Requests*

Participants who wish to appeal an adverse decision must submit a written request to NAD within 30 days of receiving notice of an adverse decision. The request must be personally signed by the participant and include: (1) a copy of the adverse decision to be appealed; and (2) a brief statement describing why the participant believes the decision is wrong.

NAD will notify the participant and the Agency after it has made a final determination. If NAD reverses the Agency's decision, the next loan processing action that would have occurred had no adverse decision been made must be taken within 60 days after the effective date of the notice from NAD.

### B. Decisions That Cannot Be Appealed

Decisions that cannot be appealed include:

- Appraisals.

- Decisions made by parties outside the Agency, even when these decisions are used as a basis for Agency decisions (such as when an applicant disagrees with a private lender's decision not to provide credit for a leveraged loan);
- Interest rates set by the Agency's procedures, unless the participant alleges that an incorrect interest rate was applied;
- An official's refusal to request an administrative waiver;
- Denials of credit due to lack of funds; and
- Rural area designations.

Even though these decisions cannot be appealed, Agency staff must provide the participant an opportunity for a review and for submitting a written request to NAD to confirm that the decision cannot be appealed.

## **1.9 CONFLICT OF INTEREST [7 CFR 3560.10]**

All Agency employees must strive to maintain the highest levels of honesty, integrity, and impartiality in conducting their activities on behalf of the Agency. The Agency's conflict of interest requirements are described in RD Instruction 1900-D, Processing and Servicing Rural Development Assistance to Employees, Relatives, and Associates. To reduce the potential for conflicts of interest, all processing, approval, servicing, or review activity must be conducted by Agency employees who:

- Are not the recipient (applicant or borrower), a recipient's family member, or a close known relative of the recipient;
- Do not have an immediate working relationship with the recipient, the Agency employee related to the recipient, or the Agency employee who would normally conduct the activity; and
- Do not have a business or close personal association with the recipient.

### **A. Applicant Disclosure**

Applicants must disclose any known relationship or association with Agency employees when they apply.

### **B. Agency Employee Disclosure**

Agency employees must disclose any known relationship or association with a recipient, regardless of whether the relationship is known to others. Loan Originators should notify a supervisor after the application is accepted but before any eligibility determination is made.

## **1.10 OTHER FEDERAL REQUIREMENTS**

### **A. Environmental Requirements [7 CFR 3560.3]**

The Agency considers environmental quality equally with economic, social, and other factors in its program development and decision-making processes. Both the Loan Originator and the Loan Approval Official are responsible for effectively integrating Agency environmental policies and procedures with loan and grant origination and servicing activities. Agency environmental policies and procedures and historic preservation requirements can be found in RD Instruction 1940-G, Environmental Program. Agency-assisted properties must also meet the lead-based paint requirements contained in Exhibit H of RD Instruction 1924-A, Planning and Performing Construction and Other Development. Resolution of conflicts or significant differences between Agency environmental regulations and State or local environmental laws requires prior consultation with National Office environmental staff.

### **B. Construction Standards**

Sites and dwellings developed or rehabilitated with Section 515 or Section 514/516 funds must meet the construction standards outlined in RD Instructions 1924-A, Planning and Performing Construction and Other Development and 1924-C, Planning and Performing Site Development. Existing dwellings financed by the Agency must be decent, safe, and sanitary and must meet all applicable State and local codes. Certain state construction codes and requirements may influence RD Instructions 1924-A, Planning and Performing Construction and Other Development and 1924-C, Planning and Performing Site Development.

### **C. Lobbying Restrictions**

RD Instruction 1940-Q, Restrictions on Lobbying prohibits applicants and recipients of Agency assistance from using appropriated funds for lobbying the federal government in connection with a specific award. This Instruction also requires that entities that request or receive loans or grants must disclose the expenditure of any funds, other than appropriated funds, for lobbying activities using Exhibit A-1 from RD Instruction 1940-Q, Restrictions on Lobbying.

### **D. Administrative Requirements**

Agency employees must comply with Agency and Departmental administrative requirements.

#### **1. Procurement**

Goods and services procured to support Agency activities such as appraisals, inspections, broker services, and property management services must conform with the policies and procedures of RD Instruction 2024-A, Acquisition, Sales, and Leasing Authority.

## **2. *File Management***

Files and other Agency records must be maintained in accordance with RD Instruction 2033-A, Records Management in Rural Development Field Offices.

## **3. *Handling Funds***

Project funds must be handled in accordance with RD Instruction 1902-A, Disbursement of Loan, Grant and Other Funds.

### **1.11 EXCEPTION AUTHORITY [7 CFR 3560.8]**

Exceptions to any requirement of this handbook or 7 CFR Part 3560 may be approved in individual cases by the Administrator if application of the requirement or failure to take action would adversely affect the Government's interest or conflict with the objectives and spirit of the authorizing statute. Any exception must be consistent with the authorizing statute and other applicable laws.

Requests for exceptions are submitted to the Administrator, through the Deputy Administrator, Multi-family Housing and may be initiated by the State Director; the Deputy Administrator, Multi-family Housing; the Director, Multi-family Housing Processing Division; or the Director, Multi-family Housing Portfolio Management Division.

The exception request must provide clear and convincing evidence of the need for the exception. At a minimum the request must include:

- A full explanation of the circumstances, including an explanation of the adverse effect on the Government's interest;
- A discussion of proposed alternatives considered; and
- A discussion of how the adverse effect will be eliminated or minimized if the exception is granted.

Requests to the Administrator for exceptions regarding architectural and engineering, environmental, or civil rights issues will include the review and comments of the appropriate National Office Technical Staff.

## **ATTACHMENT 1-A**

### **EQUAL CREDIT OPPORTUNITY ACT USDA POLICY AND THE FAIR HOUSING ACT**

#### **ECOA NOTICE**

“The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant’s income is derived from any public assistance program; or because the applicant has in good faith exercised any rights under the Consumer Credit Protection Act. The federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20850.”

Department of Agriculture regulations provide that no agency, officer, or employee of the United States Department of Agriculture shall exclude from participation in, deny the benefits of, or subject to discrimination any person based on race, color, religion, sex, age, disability, or national origin under any program or activity administered by such agency, officer, or employee.

The Fair Housing Act prohibits discrimination in real estate-related transactions, or in the terms and conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin. If an applicant or borrower believes he or she has been discriminated against for any of these reasons, that person can write to the Secretary of Agriculture, Washington, DC 20250.